

REMARKS

The present application was filed on March 26, 2004 with claims 1-20. The application claims priority to Provisional Application Serial No. 60/459,177 filed on March 31, 2003. Claims 1-20 are currently pending in the application. Claims 1, 19 and 20 are the independent claims.

In the Office Action, claims 1-20 are objected to under 37 C.F.R. §1.75(a). In addition, claims 1, 2, 15, 19 and 20 are rejected under 35 U.S.C. §102(b) as being anticipated by International Publication No. WO 02/21774 to Hatonen et al. (hereinafter "Hatonen"). Finally claims 3-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hatonen in view of U.S. Patent No. 6,597,907 to Pruitt et al. (hereinafter "Pruitt").

The Examiner indicates that claims 6-14 and 16-18 would be allowable if rewritten in independent form.

It is initially noted that the Examiner believes that the last sentence of p. 6 of the Specification may be confusing (Office Action, p. 2). In response to this concern, Applicants have amended this sentence in the interest of clarity.

With respect to the rejection of claims 1-20 under 37 C.F.R. §1.75(a), Applicants note that independent claims 1, 19 and 20 each set forth "periodically updating the set of parameters to take into account one or more of the data values." In formulating the objection to these claims, the Examiner states that this limitation "does not particularly point out how exactly the one or more data values are taken into account" (Office Action, p. 2). Applicants respectfully disagree. The "set of parameters" in claims 1, 19 and 20 characterizes the reference distribution. One skilled in the art will recognize that this reference distribution will change as new data values are added. Accordingly, the claims each set forth the step of periodically updating the set of parameters to respond to, or, in the words of the claims, to "take into account," these changes to the reference distribution. Applicants submit that such language does not generate confusion.

With respect to the objections to dependent claims 3, 16 and 17, the Examiner appears to object to the use of the words "at least" on the basis of ambiguousness. Applicants note that the words "at least" are regularly used in patent claims to keep a claim open-ended so that it does not exclude additional, unrecited elements or steps. This is the precisely the way these words are used

in claims 3, 16 and 17. Applicants, therefore, submit that to require the removal of these words would be to require that the scope of the claims be narrowed without sufficient basis.

With respect to the §102(b) rejection of independent claims 1, 19 and 20, Applicants choose to amend the claims without prejudice. In doing so, Applicants have added phrasing which expressly describes that the “the probability value corresponding to the given one of the data values is the probability of obtaining a data value at least as extreme as that given data value.” This amendment has support in the application as originally filed, e.g., on p. 7, line 23 though p. 8, line 11; and claim 8.

Applicants note that Hatonen at p. 15, lines 17-21 states:

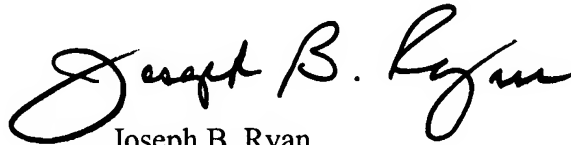
The distribution is a function that tells a probability for an incoming distance being less than a predetermined value directly. By giving an incoming distance as input to the distribution, the output is how probable it is that a distance of a given length occurs.

Here, Hatonen describes a function that gives the probability of having a given data value occur. The amended independent claims, on the other hand, describe a function that yields the probability of obtaining a data value at least as extreme as the given data value. Hatonen, therefore, fails to describe each and every element of the independent claims as amended. As a result, Applicants respectfully submit that amended independent claims 1, 19 and 20 are in condition for allowance. Dependent claims 2 and 15 are also believed to be in condition for allowance because of the amendment to claim 1.

With respect to the §103(a) rejection of dependent claims 3-5 with reference to Hatonen in view of Pruitt, Applicants respectfully submit that Pruitt fails to supplement the above-described fundamental deficiencies of Hatonen as applied to amended independent claim 1.

In view of the above, Applicants believe that claims 1-20 are in condition for allowance, and respectfully request the withdrawal of the §1.75(a) objection and the 102(b)/§103(a) rejections.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is fluid and cursive, with the first name "Joseph" being more prominent and the last name "Ryan" following in a similar style.

Date: September 23, 2005

Joseph B. Ryan
Attorney for Applicant(s)
Reg. No. 37,922
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-7517